

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION2

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NEW YORK, NEW YORK 10007-  
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Daniel Riesel  
Sive Paget & Riesel P.C.  
460 Park Avenue  
New York, NY 10022

Re: New Cassel/Hicksville Groundwater Contamination Superfund Site

Dear Mr. Riesel:

This is in response to your letters of September 25, 2014 and November 5, 2014, and your email of November 6, 2014, written to Eric Schaaf. Your letters and email concerned the Environmental Protection Agency's ("EPA's") July 2014 letters to your clients, Charles Pufahl, Adchem Corporation, and Lincoln Processing Corporation. In those letters, EPA notified your clients that EPA considers them to be potentially responsible parties ("PRPs") for the New Cassel/Hicksville Groundwater Contamination Site ("Site") and invited them, along with other PRPs, to negotiate a settlement agreement and order on consent for, among other things, the performance of the remedial design for operable unit one and the remedial investigation/feasibility study for operable unit three at the Site.

Since EPA issued the notice letters in July 2014, Magistrate Judge Lindsay issued a decision granting summary judgment to Charles Pufahl and another of your clients, Northern State Realty Company, finding that Northern State Realty Company, a dissolved company, was not liable as an "owner" under Section 107(a) of CERCLA, 42 U.S.C. §9607(a). As such, EPA no longer considers Mr. Pufahl, the surviving partner of Northern State Realty Company, a PRP for the Site. Currently before Magistrate Judge Lindsay is your summary judgment motion regarding Adchem Corporation's liability at the Site, as well as an ongoing action regarding Lincoln's liability. EPA will await judicial decisions as to those parties before determining whether EPA no longer has reason to believe either or both have potential liability under CERCLA for the Site.

Please note that EPA's notice of potential liability and subsequent invitation to your clients to participate in settlement negotiations were simply that; they reflected a reasonable basis to believe that potential liability existed at that time. While we appreciate that being a recipient of a notice of potential liability at a CERCLA site can carry with it consequences vis a vis other PRPs, those consequences, which we have little control over, do not controvert our obligation to inform parties we believe may be liable at sites. Furthermore, our July letter did not reflect any determination regarding whether to take enforcement action against your clients. If your clients

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